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the highest effort. It seems to be forgotten that every good thing is reached by a process of approximation, and that the way, though arduous, affords in its course, fruits which abundantly reward the labor of the ascent. The mind glances at the splendor of the work in its completion, and reverts to it, in its humble beginning, with contempt. The origin of an empire laboring under its own greatness, could never have been discerned in the scene of the founder of Rome marking out the limits of the city with a plough.

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## ARTICLE II.

### ANALOGY BETWEEN WAR AND JUDICIAL REDRESS.

THERE is a notion current that the principles of those who would abolish war, imply a virtual abolition of redress of injuries by the civil magistrate. Those who decry war, it seems to be thought, are of the opinion that moral force alone is sufficient to govern the world—an opinion as contrary to Scripture as it is to common sense. The magistrate, it is there said, “beareth not the sword in vain.” Abolish war!—you might as well in civil society cut off the executive arm, demolish every prison, turn loose the robber and the assassin, discard all physical coercion or restraint, and leave the law of the land to sustain its own authority by commanding itself to every man’s conscience, whether he has one or not. Thus say those who regard war and judicial force as *one* thing. We propose briefly to see whether they are in fact one or not.

In civil society, the method of obtaining redress of wrongs, or of punishing crime, consists of a series of steps admirably arranged to exclude interest and passion, and to conduct to justice without violating humanity.

*First*, Complaint of the wrong must be made to some legally constituted authority.

*Second*, Notice of the complaint must be given to the party against whom it is made, and due time allowed him to prepare for his vindication.

*Third*, The complaint must be tried in open court. With what extreme concern for the rights of humanity, and, at the same time, with what regard to justice, the tribunal of the law, in countries where liberty and civilization are most advanced, is constituted! What a provision for the selection of the jury! first, their qualifications prescribed by the law; then, chosen by the freemen; then drawn out by a responsible and disinterested officer, by lot; then the right of challenge,—how guarded at every step!—What gravity and wisdom are required in the judge! what experience in the law! how independent in the tenure of his office, and yet responsible if he steps beyond the line of good behavior!—The feelings of the jury in unison with those of the people—and the feelings of the judge, from his habits of abstraction and seclusion, suited to check popular sentiment, when running to excess; the division of duties between the judge and the jury—how every thing is arranged to ensure the ends of impartial justice!—Both parties have an opportunity to confront each other with witnesses. These witnesses, to be competent, must sustain a fair character for veracity, not be interested in the issue, within certain limits not be allied by kin to the parties, be under the sanctions of an oath, or at least, liable, if false, to suffer the pains and penalties of perjury. They must undergo a most scrutinizing examination, and their testimony be thoroughly sifted by the parties themselves, or their counsel, as well as by the court.—The pleadings must be conducted by certain rules, whose object is to shut out all extraneous matter, and to lead to the issue—the real question in dispute—so that neither by fallacy, sophistry, nor any other means, may the judges be led away from what they are called to decide, to decide upon something else. In jury cases, the jury must be unanimous, and the judge has power to cause them to review their verdict

a certain number of times. Observe, too, the great care which is used to keep the jury free from bias, to see that they are all together while making up their minds, and present in court when the verdict is pronounced, and assenting to it as their own, and, in criminal cases, regarding the face of the accused, as if to avow their solemn sense of the responsibilities under which they are placed.

After the verdict follows the judgment or sentence, pronounced, not by the same individuals who tried the facts, but by the judge.—We must not, however, pass over here the provision of the law, by which, in certain circumstances, the judgment may be suspended or arrested, and a new trial obtained. We must observe, too, that the judgment, or sentence is not left to the uncontrolled discretion of the judge, but must be either according to the amount of injury as found by the verdict, or, at least, within certain limits prescribed by the law. We must observe, again, the gradation of tribunals, so constituted, that appeal may be made from one to another, until you arrive at the one designed to possess in the highest degree the requisites necessary to ensure a right decision.—What an arrangement for cooling down the fires of passion, and for giving its fumes opportunity to pass away! What a machinery for sifting a case, and leaving the truth as unmixed as human imperfection will allow!

We must remember, too, that the whole of this process is regulated by a system of rules formed by the gradual accumulations of time, and shaped and adjusted by many upright, discriminating and comprehensive minds. It is not, in fact, the *jury*, who try the case, nor the *judge*, who passes sentence—it is the **LAW**—“the gathered wisdom of a thousand years”—“void of desire and fear, lust and anger.” “To the law and the testimony,” is the great rule of the judicial system. Who can look upon such a mode of redressing injuries without the greatest admiration? Who can regard without astonishment its balancings and its safety-guards? What infinite pains taken to ensure regularity and uniformity of action—decisions and precedents preserved, lest the mind be left to wander at

each new case through an untried path, without any thing to guide it! And by the equity proceedings, what provision for the relief from hardship which the law, by reason of this very uniformity, cannot touch! True, we hear of the law's delay, but it delays only to give time for truth and justice to be ascertained.\* The essence of despotism is despatch. In Turkey, no complaint of the law's delay is ever heard. It is only in England, in America, and in countries where justice, in her humanity, adopts as one of her maxims, "Better that ten guilty persons should escape, than that one innocent man should suffer." True, we sometimes hear of the "glorious uncertainty" of the law. But certainty is the characteristic of rashness rather than of prudence, of passion rather than of reason.

Judgment or sentence is followed by its execution. This, however, is not always immediate. Delay, especially in important criminal cases, still interposes to rectify the errors of human judgment.—Time triumphs over ignorance, and prejudice, and passion. Time and Justice, how inseparable! Where liberty, and especially where life, is at stake, with what caution, with what tender regard, the law proceeds! The accused has been examined before a magistrate, indicted by the unanimous voice of twelve impartial men, tried by twelve others equally impartial, sentenced by the law through the mouth of her interpreter, and at each of these steps might have been discharged if no good reason for farther proceedings appeared; and now, in the last extremity, hope is still held out to innocence. Reprieve or pardon may be granted if new facts come to light, and essential error in the past proceedings be discovered. In capital cases, too, the sentence of the judge must await the warrant of the highest executive authority before it can be put in execution.—Certainly, in the civil law, human life seems to be esteemed as something worth. Nor is the soul overlooked. The solemn admonition of the court, and

\* It is not the writer's design to say that delay may not be carried farther than is necessary for this end. When, however, it is so carried, it is not a proper use of the system, but an abuse of it.

the earnest exhortations of the ministers of religion, unite with the reflections of the convicted, and urge him to prepare for his future abode.

It is to be observed that the redress which the civil law requires, is required of the very persons who have committed the injury. The penalty falls upon the wrong-doers themselves. I am aware, however, that individuals may be made to suffer who are not in any wise connected with the wrong, except as held responsible on grounds of public policy for the acts of those by whom it has been committed. But never is this the case where the penalty involves any thing more than pecuniary damages. The civil law does not presume to touch the liberties or the person of any man, except for offences committed in his own person.

The law does not, having pronounced judgment upon the guilty, consider her task accomplished. She follows still with watchful eye, directs the mode of its execution, and guides the hand of him whom she entrusts with this important office. If he fails to follow the mode which she prescribes, he himself falls under her condemnation, and is visited with chastisement. Throughout her whole course, she pursues her purpose with one even tenor—seeking to do justice, and yet, in doing justice, loves mercy.

Such is a brief sketch of the general mode by which injuries are redressed in civil society—a mode which, though it may after all fail of doing perfect justice, must still, as a work of human reason, command our highest admiration.

But how is it with war? Where shall we look for the analogy? In what behold the parallel?—Here, there is no authority constituted by law to which complaint may be made—no established, invariable rule, requiring notice of the complaint, and time and opportunity for vindication—no tribunal to try the cause—no evidence solemnly and impartially examined—no correction of error—no appeal—no judge to pronounce sentence —no reprieve—no pardon—no officer continually under the inspection of law, to put the judgment in

execution—no precise character or amount prescribed to the penalty—the objects on whom it is to fall undefined—and no time assigned for its duration. Or rather, I should say that law, judge, counsel, evidence, and executioner, all centre in one single authority, and that, the interested party itself. Complaint of the injury is given or not, as may suit views of expediency—the party makes its own decision—falls to work to execute its own vengeance—humbles the other party to its own satisfaction—is overcome or exhausted itself, or, as is more frequently the case, both parties, alike wearied, after this bloody prelude, begin to think of settling their difference by a mode which, since it involves reason and argument, bears indeed some analogy to the proceedings of the law.

I am not unmindful that there is something termed the laws of war, which undoubtedly have had an influence to diminish its frequency, and to mitigate its savage ferocity. But what are these laws? How very general in their terms! As for example: “War must never be declared until all other means of redress have been faithfully tried.” “War may be declared, when necessary for self-defence. Each party should do the other the least possible injury consistent with the object it seeks.” How much are such laws worth? And what are others worth, though more definite, when it is optional with the parties whether they will obey them or not? The truth is, as nations advance in civilization, the naked deformity of war assumes necessarily some covering of decency, and requires even the illusions of equipage, music, and parade, to render it tolerable—at least, to render it pleasing.

Unhappily for the idea of war as a mode of judicial redress, the terms which designate the parties imply neither complaint of injury, nor vindication. One name is common to them both, and that the most odious name in the vocabulary of man—ENEMIES. Plaintiff and defendant—accuser and accused—prosecutor and prosecuted—criminal, felon, convict—all imply *wrong*, real or supposed; but this word, *enemy*, what does it imply but the malignity of human passion? War analogous to judicial redress! Where are the chivalry and gallantry of

him who executes the wholesome sentence of the law? What title of honor dignifies his office? What ascriptions of patriotism greet the completion of his task? Champion of his country! protector of the fair!—who applies to him names like these?

Whatever, then, war may be, let us not look to judicial proceedings under the civil law, for its counterpart. Let us seek its image elsewhere. It is a mode of redressing wrongs such as finds no parallel *within* any nation which acknowledges the supremacy of law. Within any? Our ears and eyes have of late been daily saluted with reports of law giving place to violence, malice, and bloodshed, till, in one nation, such a practice does prevail. In AMERICA, life and property are beginning to be held by a tenure precarious as the whim of an inflammable and capricious mob. In the polluted cellar, or the desecrated hall, the absent is pronounced guilty by a COMMITTEE, unheard, and without defence. The instruments of execution are put into the hands of the rabble, and, as if to mock at all right, the victim is told, on his way to the gibbet, that “this committee have not TIME to wait on any person for evidence”!!!

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### ARTICLE III.

#### ADDRESSES AT THE NINETEENTH ANNIVERSARY OF THE BRITISH PEACE SOCIETY.

WE should not occupy our pages with the addresses made at the Anniversary of the [British] Society for the Promotion of Permanent and Universal Peace, were the same course pursued by our religious and other journals in regard to Peace Societies as in regard to other benevolent associations. We have noticed reports of the anniversaries of other societies, held